

December 20, 2012

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Fred Rodriguez Jr.
Fred Rodriguez Sr.
Lorena Rodriguez
Fred & Sons Metals
1552 South Bluff Road
Montebello, California 90640

**Re: Notice of Violation and Intent to File Suit Under the
Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.***

To Whom It May Concern:

I am writing on behalf of Los Angeles Waterkeeper (“Waterkeeper”) regarding violations of the Clean Water Act¹ and the State of California’s General Industrial Storm Water Permit (“Storm Water Permit”)² occurring at the Fred & Sons Metals Facility, located at 552 South Bluff Road, Montebello, California 90640 (hereinafter “Fred & Sons Facility” or “Facility”). Information available to Waterkeeper indicates that Fred Rodriguez Jr., Fred Rodriguez Sr., and Lorena Rodriguez are the owners and/or operators of Fred & Sons Facility (hereinafter referred to as “Fred & Sons Owners and/or Operators”).³ The owners and/or operators of the Facility have failed to obtain coverage under the Storm Water Permit and continue to operate the Facility without a Permit in violation of the Clean Water Act. *See* 33 U.S.C §§ 1311(a), 1342. (“A failure to comply with or obtain coverage under the Storm Water Permit is a violation of the Clean Water Act.”).

The Clean Water Act provides that a facility’s owners and/or operators are liable and subject to civil penalties for violations of its provisions. 40 C.F.R. § 122.41(b). As explained below, the owners and/or operators of the Facility are liable and subject to civil penalties for violating the Clean Water Act and the Storm Water Permit.

¹ Federal Water Pollution Control Act, 33 U.S.C. §§ 1251 *et seq.*

² National Pollutant Discharge Elimination System (“NPDES”) General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 92-12-DWQ, as amended by Order No. 97-03-DWQ.

³ The owner and/or operator of the Facility is identified in greater detail in Section I.B below.

Section 505(a) of the Clean Water Act authorizes citizen suits "against any person . . . who is alleged to be in violation of . . . an effluent standard or limitation under this Act or . . . an order issued . . . with respect to such a standard or limitation." 33 U.S.C. § 1365 (a)(1). A citizen must provide notice of the alleged violation(s) and his/her intent to sue at least sixty (60) days prior to initiating a civil action under Section 505(a) of the Clean Water Act. 33 U.S.C. § 1365(b). Notice must be given to the alleged violator, the Administrator of the United States Environmental Protection Agency ("EPA"), the Regional Administrator of the EPA, the executive officer of the water pollution control agency in the state in which the alleged violation occurred, and, if the alleged violator is a corporation, to the registered agent of the corporation. *See* 40 C.F.R. § 135.2.

Waterkeeper submits this letter to you as the responsible owner, officer, and/or operator of Fred & Sons Facility. By this letter, Waterkeeper hereby puts the owners and/or operators of the Fred & Sons Facility on notice that after the expiration of sixty (60) days from the date of this letter, Waterkeeper intends to file an enforcement action in Federal court against the owners and/or operators of the Facility for violating the Storm Water Permit and the Clean Water Act.

I. Background

A. Los Angeles Waterkeeper

Los Angeles Waterkeeper (formerly the Santa Monica Baykeeper) is a non-profit 501(c)(3) public benefit corporation organized under the laws of California with its main office at 120 Broadway, Suite 105, Santa Monica, CA 90401. Founded in 1993, Waterkeeper has approximately 3,000 members who live and/or recreate in and around the Los Angeles area. Waterkeeper is dedicated to the preservation, protection, and defense of the rivers, creeks and coastal waters of Los Angeles County from all sources of pollution and degradation. To further this mission, Waterkeeper actively seeks federal and state implementation of the Clean Water Act. Where necessary, Waterkeeper directly initiates enforcement actions on behalf of itself and its members.

Members of Waterkeeper reside in Los Angeles County, near the Rio Hondo and the Los Angeles River ("L.A. River"). As explained in detail below, the Fred & Sons Owners and/or Operators have continuously discharged storm water associated with industrial activity into the L.A. River via Rio Hondo and ultimately the Pacific Ocean without obtaining the necessary coverage under the Storm Water Permit and in violation of the Clean Water Act. Waterkeeper members use the Rio Hondo, the L.A. River and the Pacific Ocean to kayak/canoe, bicycle, hike and walk, wade, fish, conduct scientific monitoring and study, and view birds and other wildlife. Additionally, water from the L.A. River flows into the Los Angeles Harbor ("L.A. Harbor") in Long Beach and into the Pacific Ocean where Waterkeeper members engage in scientific study through pollution and habitat monitoring and restoration activities, including Waterkeeper's Kelp Restoration Project and Marine Protected Areas Watch Project.

The unlawful storm water discharge from the Fred & Sons Facility into the Rio Hondo, the L.A. River, the L.A. Harbor and the Pacific Ocean impairs Waterkeeper members' use and enjoyment of these waters. Thus, the interests of Waterkeeper's members have been, are being and will continue to be adversely affected by Fred & Sons Owners and/or Operators' failure to comply with the Clean Water Act and the Storm Water Permit.

B. The Fred & Sons Owners and/or Operators

Information available to Waterkeeper indicates the Fred & Sons Facility located at 1552 South Bluff Road, Montebello, California 90640 is owned and/or operated by Fred Rodriguez Jr., Fred Rodriguez Sr., and Lorena Rodriguez. Information available to Waterkeeper also indicates that Fred Rodriguez Jr., Fred Rodriguez Sr., and Lorena Rodriguez are the Principals and/or Owners of Fred & Sons Metals.

Information available to Waterkeeper indicates that the Fred & Sons Owners and/or Operators have failed to obtain coverage under the Storm Water Permit since the business began its operations. Information available to Waterkeeper indicates that the Facility's industrial activities include but are not limited to the storage, processing, handling, recycling, and transportation of scrap metals. These industrial operations fall within the Storm Water Permit Standard Industrial Classification code of regulated activity ("SIC Code") as 5093 (processing, reclaiming, and wholesale distribution of scrap metal and waste materials). The Storm Water Permit therefore regulates the storm water discharges from the Fred & Sons Facility. See Storm Water Permit, Attachment 1, at p. 2.

C. Storm Water Pollution, Los Angeles River, Los Angeles Harbor and Pacific Ocean

With every significant rainfall event, millions of gallons of polluted rainwater, originating from numerous Los Angeles industrial operations such as the Fred & Sons Facility, pour into storm drains and Los Angeles area surface waters. The consensus among regulatory agencies and water quality experts is that storm water pollution accounts for more than half of the total pollution entering marine and river environments annually. According to the National Research Council's "Report on Urban Storm Water," storm water runoff is "a principal contributor to water quality impairments of water bodies nationwide."⁴ This discharge of pollutants from industrial facilities in storm water contributes to the impairment of downstream waters and aquatic dependent wildlife. A water body is impaired if it is unable to support its beneficial uses, as described below.

Information available to Waterkeeper indicates that the Fred & Sons Facility is about four hundred (400) feet to the west of the Rio Hondo and three (3) miles to the east of the L.A. River. Information available to Waterkeeper further indicates that storm water flows from the Fred & Sons Facility enter the nearby municipal storm drain

⁴National Research Council of the National Academies. *Urban Stormwater Management in the United States*. at p. vii. (2008).

systems and then are carried south by the municipal storm drains until they reach and discharge via the Rio Hondo into the L.A. River.

Polluted storm water discharges from industrial facilities, like the Fred & Sons Facility, contribute to the impairment of groundwater, downstream surface waters, and aquatic dependent wildlife. A water body is impaired if it is unable to support its beneficial uses. The Los Angeles Regional Water Quality Control Board ("Regional Board")'s Water Quality Control Plan for the Los Angeles and Ventura County Watersheds ("Basin Plan") lists the Beneficial Uses for waters in the L.A. River. The Beneficial Uses for the waters that receive storm water discharges from the Facility include: ground water recharge (GWR), water contact recreation (REC1), non-contact water recreation (REC2), warm freshwater habitat (WARM), wildlife habitat (WILD), wetland habitat (WET), municipal and domestic supply (MUN), and industrial service supply (IND). *See* Basin Plan, Table 2-1.

The L.A. River is home to natural vegetation and a variety of fish and bird species. Los Angeles area residents and visitors alike are increasingly using the River for recreation. For the Los Angeles area aquatic ecosystem to regain its health and endangered species to recover and thrive, unregulated storm water discharges associated with industrial activity, including those from the Fred & Sons Facility, must be eliminated.

II. The Fred & Sons Facility and the Associated Discharge of Unpermitted Storm Water

Information available to Waterkeeper indicates ongoing and continuous violations of the Clean Water Act at the Fred & Sons Facility. The Facility has been operating without the necessary Storm Water Permit coverage since at least October 1, 2007, and has been discharging and continues to discharge polluted storm water associated with industrial activity since its founding.

Information available to Waterkeeper indicates that the size of the Ace Recycling Facility is less than 0.5 acre. Waterkeeper's visual observations indicate that the Facility is surrounded by a fence and includes both a yard with uncovered storage boxes and barrels of materials, as well as a structure containing miscellaneous containers of scrap metal and other recyclable materials. Investigations by Waterkeeper indicate that the Fred & Sons Owners and/or Operators engage in the recycling services of scrap metals and other waste materials.

Waterkeeper's investigations also confirm that the Fred & Sons Owners and/or Operators conduct scrap and waste material recycling operations and store materials at the Facility without adequate cover, thereby exposing pollutants associated with their industrial activities to precipitation, which carries away these pollutants as storm water flows into the Rio Hondo, the L.A. River, the L.A. Harbor and the Pacific Ocean.

A portion of the Fred & Sons Facility site has no roof or other covering. Waterkeeper has observed that the Fred & Sons Owners and/or Operators store scrap metal and other materials in large boxes and/or barrels placed directly on the ground without any covering or containment and other materials are stored on the ground or in barrels behind the Facility's conex-type storage box in the southeast corner, thereby exposing pollutants associated with their industrial activities to storm water flows.

The failure to properly address these pollutant sources results in contaminated flows generated by the Facility during rain events that are discharged from its outfalls, into the municipal storm sewer system and ultimately into the Rio Hondo, the L.A. River, the L.A. Harbor, and the Pacific Ocean.

Waterkeeper's visual observations of the Facility also indicate that the Fred & Sons Owners and/or Operators have not properly developed and/or installed best management practices ("BMPs") at the Facility sufficient to prevent the exposure of pollutants associated with the Facility's industrial operations to storm water and non-storm water, and further, have not properly developed and/or installed BMPs sufficient to prevent the discharge of these pollutants from the Facility during rainstorm events. Consequently, during rain events, storm water carries pollutants from the uncovered operations areas, uncovered storage containers, ground and floor contaminants, equipment, staging areas, shipping and receiving areas, and other sources directly onto South Bluff Road, the Rio Hondo bike path, and into area storm drains. These illegal discharges degrade the beneficial uses of the Rio Hondo, the L.A. River and the Pacific Ocean and negatively impact Waterkeeper's members' use and enjoyment of these waters.

The evidence from visual observations and investigations conducted by Waterkeeper demonstrate that the Fred & Sons Owners and/or Operators have violated and continue to violate the Clean Water Act by discharging storm water from their Facility without obtaining coverage under the Storm Water Permit and complying with the requirements of this Permit. Perhaps more importantly, these failures to comply with the Clean Water Act and the Storm Water Permit have resulted in and continue to contribute to the degradation of the Rio Hondo, the L.A. River and the Pacific Ocean, while threatening and harming a diverse array of wildlife and threatened and endangered species.

III. Fred & Sons Metals' Violations of the Clean Water Act and the Storm Water Permit

The Clean Water Act expressly prohibits the "discharge of any pollutant" unless such discharge complies with the terms of any applicable NPDES permit, and sections 301, 302, 307, 308, and 402 of the CWA. 33 U.S.C. §§ 1311(a)(1), 1342. "Discharge of a pollutant" means any "addition of a pollutant to navigable waters from any point source." 33 U.S.C. § 1362(12). Pollutant is defined to include "industrial, municipal, and agricultural waste discharged into water." 33 U.S.C. § 1362(6). A point source is "any discernable, confined and discrete conveyance," 33 U.S.C. § 1362(14), and

navigable waters are broadly defined as “the waters of the United States.” 33 U.S.C. § 1362(7). NPDES permits include both general permits, which are issued under 40 C.F.R. § 122.28 authorizing a category of discharges under the CWA within a geographical area, and individual permits, which are issued to specific facilities.

A. Unpermitted Discharges of Storm Water

In California, the owner and/or operator of any facility that discharges storm water associated with one of the industrial activities listed in Part 122.26(b)(14) of Title 40 of the Code of Federal Regulations and Attachment 1 of the Storm Water Permit must obtain coverage under the Storm Water Permit. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1); Storm Water Permit, Fact Sheet, at pp. VI-VII.

Metal scrapyards, salvage yards and recycling facilities engaged in assembling, breaking up, sorting, and wholesale distribution of scrap and waste material are among the facilities listed in Attachment 1 of the Storm Water Permit. Storm Water Permit, Attachment 1, at p. 2. Consequently, since the Fred & Sons Facility is engaged in the recycling, breaking up, sorting and wholesale distribution of scrap metals and other scrap and waste material, the owners and/or operators of the Facility must obtain coverage under the Storm Water Permit. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1); Storm Water Permit, Fact Sheet, at pp. VI-VII. An industrial facility operator who has not obtained coverage under the Storm Water Permit must submit an application for an individual NPDES permit. *Id.*

Furthermore, the owner and/or operator of such facility must comply with the terms of the Storm Water Permit in order to lawfully discharge pollutants. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1); Storm Water Permit, Fact Sheet, at p. VII. The Storm Water Permit imposes on industrial facilities specific requirements related to the quality of their storm water and non-storm water discharges. *See, e.g.,* Storm Water Permit, at pp. 3 (Section A, Discharge Prohibitions), 3-4 (Section B, Effluent Limitations), 4-5 (Section C, Receiving Water Limitations), 5-6 (Section D, Special Conditions). Any noncompliance with the conditions of the Storm Water Permit “constitutes a violation of the Clean Water Act and the Porter-Cologne Water Quality Control Act and is grounds for ... enforcement action.” Storm Water Permit, at p. 46.⁵

Information available to Waterkeeper indicates that the Fred & Sons Owners and/or Operators have failed to obtain coverage under the Storm Water Permit. Moreover, Fred & Sons Owners and/or Operators have failed to apply for and obtain coverage under an individual NPDES Permit. By failing to apply for Storm Water Permit coverage and continuing to discharge polluted storm water into the L.A. River, L.A.

⁵ A copy of the current Storm Water Permit is attached as Exhibit A to the Notice of Violation and Intent to File Suit sent to the Fred and Sons Owners and/or Operators only and is not included in the notices sent to the Administrator of the U.S. EPA, the Regional Administrator of U.S. EPA, Region IX, the Executive Director of the California State Water Resources Control Board and the Executive Officer of the Los Angeles Regional Water Quality Control Board. A copy of the current Storm Water Permit is available at http://www.waterboards.ca.gov/water_issues/programs/stormwater/docs/induspmnt.pdf.

Harbor and the Pacific Ocean without an NPDES Permit, the Fred & Sons Owners and/or Operators have continuously violated the Storm Water Permit and the Clean Water Act since at least 2011. *See* 33 U.S.C. §§ 1311(a), 1342; 40 C.F.R. § 122.26(c)(1).

Information available to Waterkeeper indicates that the Fred & Sons Facility has illegally discharged storm water into area storm drains, the Rio Hondo, the L.A. River, L.A. Harbor and the Pacific Ocean during every measurable precipitation event at the facility on at least one hundred sixteen (116) days since October 1, 2007.⁶

To obtain authorization for continued and future storm water discharges associated with industrial activity under the Storm Water Permit, each facility operator must submit an NOI. Storm Water Permit, Fact Sheet, at p. II. The Storm Water Permit requires that a facility operator submit an NOI for each industrial facility that is required by EPA regulations to obtain a permit. *See* Storm Water Permit, Provisions E(1)-(3); Attachment 3, NOI Instructions.

B. Failure to Prepare and Implement a SWPPP and a Monitoring and Reporting Program

A facility's failure to obtain coverage under the Storm Water Permit or to comply with the requirements of the Storm Water Permit is a violation of the Clean Water Act. *See* 40 C.F.R. § 122.41(a); Storm Water Permit, Section C(1). Information available to Waterkeeper indicates that Fred & Sons Owners and/or Operators have failed to prepare and implement a Storm Water Pollution Prevention Plan ("SWPPP") and a Monitoring and Reporting Program, both requirements of the Storm Water Permit. As a result, Fred & Sons Owners and/or Operators have violated the Storm Water Permit.

1. Failure to Develop, Implement, and/or Revise an Adequate Storm Water Pollution Prevention Plan (SWPPP)

The Fred & Sons Owners and/or Operators have also failed to develop and implement an adequate Storm Water Pollution Prevention Plan ("SWPPP") as required by Section A of the Storm Water Permit. Section A(1) and Provision E(2) of the Storm Water Permit require dischargers to have developed and implemented a SWPPP by October 1, 1992, or prior to beginning industrial activities, that meets all of the requirements of the Storm Water Permit. The Storm Water Permit's SWPPP requirement has two objectives: (1) to examine and identify potential sources of polluted storm water discharge from the Facility; and (2) to develop and implement facility-specific BMPs to reduce or prevent pollutants associated with industrial activities in storm water discharges. Storm Water Permit, Section A(2). To ensure its effectiveness, the SWPPP must be evaluated on an annual basis pursuant to the requirements of Section A(9), and must be revised as necessary to ensure compliance with the Storm Water Permit. *Id.*, Sections A(9), A(10).

⁶ A list with all significant rain events – daily precipitation accumulation greater than 0.1 inch – from weather stations located nearest to the facility is attached as Exhibit B.

Sections A(3) to A(10) of the Storm Water Permit set forth the requirements for a SWPPP. Among other requirements, the SWPPP must include: a site map showing the facility boundaries, storm water drainage areas with flow patterns, nearby water bodies, the location of the storm water collection, conveyance and discharge system, structural control measures, areas of actual and potential pollutant contact, and areas of industrial activity (Section A(4)); a list of significant materials handled and stored at the site (Section A(5)); and, a description of potential pollutant sources including industrial processes, material handling and storage areas, dust and particulate generating activities, a description of significant spills and leaks, a list of all non-storm water discharges and their sources, and a description of locations where soil erosion may occur (Section A(6)). Sections A(7) and (8) require an assessment of potential pollutant sources at the facility and a description of the BMPs to be implemented at the facility that will reduce or prevent pollutants in storm water discharges and authorized non-storm water discharges, including structural BMPs where non-structural BMPs are not effective.

The Fred & Sons Owners and/or Operators have not developed and/or implemented a SWPPP that meets the requirements of the Storm Water Permit. Every day the Fred & Sons Owners and/or Operators operate the Facility with an inadequately developed and/or implemented SWPPP constitutes a violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C § 1311(a). The Fred & Sons Owners and/or Operators have therefore been in daily and continuous violation of the Storm Water Permit's SWPPP requirements every day since at least October 1, 2007. These violations are ongoing and the Fred & Sons Owners and/or Operators will continue to be in violation every day that they fail to develop and implement an adequate SWPPP for the Fred & Sons Facility. Waterkeeper will include additional violations when information becomes available. The Fred & Sons Owners and/or Operators are subject to civil penalties for all violations of the Storm Water Permit and the Clean Water Act since at least October 1, 2007.

2. Failure to Develop and Implement a Monitoring and Reporting Program

Section B(1) and Provision E(3) of the Storm Water Permit require facility operators to develop and implement an adequate Monitoring and Reporting Program ("MRP") by October 1, 1992 or prior to the commencement of industrial activities at a facility. The objective of the MRP requirement is to: "(1) demonstrate compliance with the Storm Water Permit; (2) aid in the implementation of the SWPPP; and (3) measure the effectiveness of the BMPs in reducing or preventing pollutants in storm water discharges and authorized non-storm water discharges." Storm Water Permit, at p. x. The MRP must therefore ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility, and that they are evaluated and revised whenever appropriate. *Id.*, Section B(2).

Sections B(3) to B(16) of the Storm Water Permit set forth the MRP requirements. Specifically, Section B(3) requires dischargers to conduct quarterly dry season visual observations of all drainage areas within their facility for the presence of

authorized and unauthorized non-storm water discharges. Section B(4) requires dischargers to conduct visual observations of storm water discharges from one storm event per month during the wet season (defined as October 1 to May 30). Sections B(3) and (4) further require dischargers to document the presence of any floating or suspended material, oil and grease, discolorations, turbidity, odor and the source of any pollutants. Dischargers must maintain records of observations, observation dates, locations observed, and responses taken to eliminate unauthorized non-storm water discharges and to reduce or prevent pollutants from contacting non-storm water and storm water discharges. Storm Water Permit, Sections B(3) and (4). Finally, dischargers must revise the SWPPP to ensure that BMPs are effectively reducing and/or eliminating pollutants at the facility. *Id.*, Section B(4).

Sections B(5) and (7) of the Storm Water Permit require dischargers to visually observe and collect samples of storm water discharges from all locations where storm water is discharged. Storm water samples must be collected during the first hour of discharge from (1) the first storm event of the wet season, and (2) at least one other storm event in the wet season.” *Id.*, Section B(5)(a). The Storm Water Permit allows permittees to comply with the MRP requirements individually or participate in a group monitoring program. *Id.*, Section B(15).

Storm water samples must be analyzed for total suspended solids (“TSS”), pH, specific conductance, and total organic carbon (“TOC”) or oil and grease. *Id.*, Section B(5)(c). The Facility, as a scrap metal recycling facility classified as SIC Code 5093, must also analyze storm water samples for iron, lead, aluminum, zinc, and chemical oxygen demand, or as required by the Regional Board. *Id.*; *see also id.*, Table D, Sector N.

Information available to Waterkeeper indicates that the Fred & Sons Owners and/or Operators have not sampled or analyzed their storm water discharges or conducted the required visual observations since at least October 1, 2007.

In addition to the requirements to sample and analyze storm water discharges and conduct visual observations, Section B(14) of the Storm Water Permit requires dischargers to submit an Annual Report to the Regional Board by July 1 of each year. The Annual Report must include a summary of visual observations and sampling results, an evaluation of the visual observation and sampling and analysis results, laboratory reports, the annual comprehensive site compliance evaluation report, an explanation of why a facility did not implement any activities required, and records specified in Section B(13). Storm Water Permit, Section B(14). Waterkeeper’s investigation reveals that the Fred & Sons Owners and/or Operators have not submitted the required Annual Report since at least October 1, 2007.

Every day that the Fred & Sons Owners and/or Operators operate the Facility without conducting the requisite visual observations and storm water sampling and analysis, and without submitting annual reports is a separate and distinct violation of the Storm Water Permit and Section 301(a) of the Clean Water Act, 33 U.S.C. §1311(a). The

Freds & Sons Owners and/or Operators have been in daily and continuous violation of the Storm Water Permit's MRP requirements every day since at least October 1, 2007. These violations are ongoing and the Fred & Sons Owners and/or Operators will continue to be in violation every day that they fail to revise, develop, and/or implement an adequate MRP for the Facility. Waterkeeper will include additional violations when information becomes available. The Fred & Sons Owners and/or Operators are subject to penalties for all violations of the Storm Water Permit and the Clean Water Act occurring since at least October 1, 2007.

C. Relief and Penalties Sought for Violations of the Clean Water Act

Pursuant to Section 309(d) of the Clean Water Act, 33 U.S.C. § 1319(d), and the Adjustment of Civil Monetary Penalties for Inflation, 40 C.F.R. §19.4, each separate violation of the Clean Water Act subjects the violator to a penalty for all violations occurring during the period commencing five years prior to the date of a notice of intent to file suit. These provisions of law authorize civil penalties of up to \$32,500 per day per violation for all Clean Water Act violations between March 15, 2004 and January 12, 2009, and \$37,500 per day per violation for all Clean Water Act violations after January 12, 2009. In addition to civil penalties, Waterkeeper will seek injunctive relief preventing further violations of the Clean Water Act pursuant to Sections 505(a) and (d), 33 U.S.C. §1365(a) and (d), declaratory relief, and such other relief as permitted by law. Lastly, pursuant to section 505(d) of the Clean Water Act, 33 U.S.C. § 1365(d), Waterkeeper will seek to recover its costs, including attorneys' and experts' fees, associated with this enforcement action.

Waterkeeper now places the Fred & Sons Owners and/or Operators on notice of their violations of the Clean Water Act and the Storm Water Permit for each day of violation occurring at the Facility since October 1, 2007.

IV. Conclusion

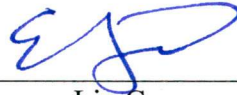
Upon expiration of the 60-day notice period, Waterkeeper will file a citizen suit under Section 505(a) of the Clean Water Act for the above-referenced violations. During the 60-day notice period, however, Waterkeeper is willing to discuss effective remedies for the violations noted in this letter. If you wish to pursue such discussions in the absence of litigation, it is suggested that you initiate those discussions immediately. If good faith negotiations are not being made, at the close of the 60-day notice period, Waterkeeper will proceed expeditiously with litigation. ***We may elect not to initiate litigation if Fred & Sons Metals applies for coverage under the Storm Water Permit and develops and implements an adequate SWPPP and MRP within 60 days from the date of this letter.***

Please direct all communications to Los Angeles Waterkeeper:

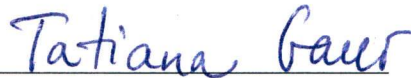
Liz Crosson
Tatiana Gaur

Los Angeles Waterkeeper
120 Broadway, Suite 105
Santa Monica, California 90401
(310) 305-9645

Sincerely,



Liz Crosson
Los Angeles Waterkeeper



Tatiana Gaur
Los Angeles Waterkeeper

SERVICE LIST

VIA U.S. MAIL

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Executive Officer
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Los Angeles Region
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**Precipitation Data from Whittier City Yard (Site No. 106) Weather Station
October 1, 2007 to May 30, 2008**

Date	Day of the Week	Total Rainfall (in inches)
October 13, 2007	Saturday	0.48
November 13, 2007	Tuesday	0.48
November 30, 2007	Friday	0.36
December 7, 2007	Friday	0.34
December 18, 2007	Tuesday	0.51
December 19, 2007	Wednesday	0.24
January 4, 2007	Thursday	0.57
January 5, 2007	Friday	0.48
January 6, 2007	Saturday	0.62
January 23, 2008	Wednesday	0.65
January 24, 2008	Thursday	0.55
January 25, 2008	Friday	0.62
January 26, 2008	Saturday	0.31
January 27, 2008	Sunday	0.96
January 28, 2008	Monday	0.24
February 3, 2008	Sunday	0.27
February 20, 2008	Wednesday	0.17
February 21, 2008	Thursday	0.24
February 22, 2008	Friday	0.24
February 24, 2008	Sunday	0.34
May 22, 2008	Thursday	0.14

**Precipitation Data from Rio Hondo Spreading Ground (Site No. AL440) Weather Station
October 1, 2008 to May 30, 2009**

Date	Day of the Week	Total Rainfall (in inches)
November 4, 2008	Tuesday	0.15
November 25, 2008	Tuesday	0.61
November 26, 2008	Wednesday	1.01
December 15, 2008	Monday	1.59
December 17, 2008	Wednesday	0.70
December 22, 2008	Monday	0.20
December 25, 2008	Thursday	0.28
January 23, 2008	Monday	0.30
February 5, 2009	Thursday	1.27
February 6, 2009	Friday	1.09
February 7, 2009	Saturday	0.43
February 9, 2009	Monday	0.35
February 13, 2009	Friday	0.25
February 16, 2009	Monday	1.13
February 17, 2009	Tuesday	0.35
March 4, 2009	Wednesday	0.15

**Precipitation Data from Rio Hondo Spreading Ground (Site No. AL440) Weather Station
October 1, 2009 to May 30, 2010**

Date	Day of the Week	Total Rainfall (in inches)
October 13, 2009	Tuesday	0.56
October 14, 2009	Wednesday	1.22
December 7, 2009	Monday	0.89
December 11, 2009	Friday	0.35
December 12, 2009	Saturday	1.26
December 13, 2009	Sunday	0.17
December 3, 2009	Thursday	0.11
January 13, 2010	Wednesday	0.10
January 17, 2010	Sunday	0.22
January 18, 2010	Monday	1.19
January 19, 2010	Tuesday	0.63
January 20, 2010	Wednesday	1.63
January 21, 2010	Thursday	0.74
January 22, 2010	Friday	0.42
January 26, 2010	Tuesday	0.18
February 5, 2010	Friday	0.70
February 6, 2010	Saturday	1.89
February 9, 2010	Tuesday	0.62
February 27, 2010	Saturday	0.93
March 6, 2010	Saturday	0.43
April 5, 2010	Monday	0.21
April 11, 2010	Sunday	0.41
April 12, 2010	Monday	0.35
April 28, 2010	Wednesday	0.20

**Precipitation Data from Rio Hondo Spreading Ground (Site No. AL440) Weather Station
October 1, 2010 to May 30, 2011**

Date	Day of the Week	Total Rainfall (in inches)
October 30, 2010	Saturday	0.36
November 8, 2010	Monday	0.16
November 20, 2010	Saturday	0.49
November 21, 2010	Sunday	0.22
November 27, 2010	Saturday	0.13
December 5, 2010	Sunday	0.46
December 17, 2010	Friday	0.23
December 18, 2010	Saturday	1.21
December 19, 2010	Sunday	2.73
December 20, 2010	Monday	1.79
December 21, 2010	Tuesday	1.27
December 22, 2010	Wednesday	1.03
December 25, 2010	Saturday	0.60
December 26, 2010	Sunday	0.30
December 29, 2010	Wednesday	0.94
January 2, 2011	Sunday	0.40
January 3, 2011	Monday	0.25
January 30, 2011	Sunday	0.34
February 16, 2011	Wednesday	0.54
February 18, 2011	Friday	0.37
February 19, 2011	Saturday	0.29
February 25, 2011	Friday	0.86
February 26, 2011	Saturday	0.26
March 2, 2011	Wednesday	0.12
March 19, 2011	Saturday	0.14
March 20, 2011	Sunday	1.79
March 21, 2011	Monday	0.19
March 23, 2011	Wednesday	0.39
March 24, 2011	Thursday	0.13
March 25, 2011	Friday	0.30
March 27, 2011	Sunday	0.12
May 17, 2011	Tuesday	0.11
May 18, 2011	Wednesday	0.19

**Precipitation Data from Rio Hondo Spreading Ground (Site No. AL440) Weather Station
October 1, 2011 to May 30, 2012**

Date	Day of the Week	Total Rainfall (in inches)
October 5, 2011	Saturday	1.60
November 4, 2011	Monday	0.21
November 6, 2011	Saturday	0.31
November 12, 2011	Sunday	0.15
November 20, 2011	Saturday	0.94
December 12, 2011	Sunday	0.68
December 15, 2011	Friday	0.18
January 21, 2012	Saturday	0.66
January 23, 2012	Sunday	0.58
February 15, 2012	Monday	0.29
March 17, 2012	Tuesday	0.63
March 25, 2012	Wednesday	0.95
April 11, 2012	Saturday	0.50
April 13, 2012	Sunday	0.89
April 26, 2012	Wednesday	0.45

**Precipitation Data from Rio Hondo Spreading Ground (Site No. AL440) Weather Station
October 1, 2012 to December 11, 2012**

Date	Day of the Week	Total Rainfall (in inches)
October 11, 2012	Thursday	0.42
November 17, 2012	Saturday	0.27
November 29, 2012	Thursday	0.13
November 30, 2012	Friday	0.41
December 2, 2012	Sunday	0.36
December 3, 2012	Monday	0.30